

By: Springer

H.B. No. 4448

Substitute the following for H.B. No. 4448:

By: Harless

C.S.H.B. No. 4448

A BILL TO BE ENTITLED

AN ACT

relating to the use of unmanned aircraft.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 423.001, Government Code, is amended to read as follows:

Sec. 423.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1) "Correctional facility" means:

(A) a confinement facility operated by or under contract with any division of the Texas Department of Criminal Justice;

(B) a municipal or county jail;

(C) a confinement facility operated by or under contract with the Federal Bureau of Prisons; or

(D) a secure correctional facility or secure detention facility, as defined by Section 51.02, Family Code.

(2) "Critical infrastructure facility" means one of the following, if enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that are posted on the property, are reasonably likely to come to the attention of intruders, and indicate that entry is forbidden:

(A) a petroleum or alumina refinery;

(B) an electrical power generating facility, substation, switching station, or electrical control center;

- 1                    (C) a chemical, polymer, or rubber manufacturing  
2 facility;
- 3                    (D) a water intake structure, water treatment  
4 facility, wastewater treatment plant, or pump station;
- 5                    (E) a natural gas compressor station;
- 6                    (F) a liquid natural gas terminal or storage  
7 facility;
- 8                    (G) a telecommunications central switching  
9 office or any structure used as part of a system to provide wired or  
10 wireless telecommunications services;
- 11                   (H) a port, railroad switching yard, trucking  
12 terminal, or other freight transportation facility;
- 13                   (I) a gas processing plant, including a plant  
14 used in the processing, treatment, or fractionation of natural gas;
- 15                   (J) a transmission facility used by a federally  
16 licensed radio or television station;
- 17                   (K) a steelmaking facility that uses an electric  
18 arc furnace to make steel;
- 19                   (L) a dam that is classified as a high hazard by  
20 the Texas Commission on Environmental Quality;
- 21                   (M) a concentrated animal feeding operation, as  
22 defined by Section 26.048, Water Code;
- 23                   (N) any portion of an aboveground oil, gas, or  
24 chemical pipeline;
- 25                   (O) an oil or gas drilling site;
- 26                   (P) a group of tanks used to store crude oil, such  
27 as a tank battery;

1           (Q) an oil, gas, or chemical production facility;

2           (R) an oil or gas wellhead;

3           (S) any oil and gas facility that has an active  
4 flare;

5           (T) an airport, as defined by Section 22.001,  
6 Transportation Code, that serves commercial air carriers; or

7           (U) a military installation owned or operated by  
8 or for the federal government, the state, or another governmental  
9 entity.

10           (3) "Dam" means any barrier, including any appurtenant  
11 structures, that is constructed for the purpose of permanently or  
12 temporarily impounding water.

13           (4) "Detention facility" means a facility operated by  
14 or under contract with United States Immigration and Customs  
15 Enforcement for the purpose of detaining aliens and placing them in  
16 removal proceedings.

17           (5) "Image" [~~,"image"~~] means any capturing of sound  
18 waves, thermal, infrared, ultraviolet, visible light, or other  
19 electromagnetic waves [~~, odor, or other conditions existing~~] on or  
20 about real property in this state or an individual located on that  
21 property.

22           (6) "Sports venue" means an arena, automobile  
23 racetrack, coliseum, stadium, or other type of area or facility  
24 that:

25                   (A) has a seating capacity of 30,000 or more  
26 people; and

27                   (B) is primarily used for one or more

1 professional or amateur sports or athletics events.

2 SECTION 2. Section 423.002(a), Government Code, is amended  
3 to read as follows:

4 (a) It is lawful to capture an image using an unmanned  
5 aircraft in this state:

6 (1) for the purpose of professional or scholarly  
7 research and development or for another academic purpose by a  
8 person acting on behalf of an institution of higher education or a  
9 private or independent institution of higher education, as those  
10 terms are defined by Section 61.003, Education Code, including a  
11 person who:

12 (A) is a professor, employee, or student of the  
13 institution; or

14 (B) is under contract with or otherwise acting  
15 under the direction or on behalf of the institution;

16 (2) in airspace designated as a test site or range  
17 authorized by the Federal Aviation Administration for the purpose  
18 of integrating unmanned aircraft systems into the national  
19 airspace;

20 (3) as part of an operation, exercise, or mission of  
21 any branch of the Texas military forces, as defined by Section  
22 437.001, or the United States military;

23 (4) if the image is captured by a satellite for the  
24 purposes of mapping;

25 (5) if the image is captured by or for an electric or  
26 natural gas utility or a telecommunications provider:

27 (A) for operations and maintenance of utility or

1 telecommunications facilities for the purpose of maintaining  
2 utility or telecommunications system reliability and integrity;

3 (B) for inspecting utility or telecommunications  
4 facilities to determine repair, maintenance, or replacement needs  
5 during and after construction of such facilities;

6 (C) for assessing vegetation growth for the  
7 purpose of maintaining clearances on utility or telecommunications  
8 easements; and

9 (D) for utility or telecommunications facility  
10 routing and siting for the purpose of providing utility or  
11 telecommunications service;

12 (6) with the consent of the individual who owns or  
13 lawfully occupies the real property captured in the image;

14 (7) pursuant to a valid search or arrest warrant;

15 (8) if the image is captured by a law enforcement  
16 authority or a person who is under contract with or otherwise acting  
17 under the direction or on behalf of a law enforcement authority:

18 (A) in immediate pursuit of a person law  
19 enforcement officers have reasonable suspicion or probable cause to  
20 suspect has committed an offense, not including misdemeanors or  
21 offenses punishable by a fine only;

22 (B) for the purpose of documenting a crime scene  
23 where an offense, not including misdemeanors or offenses punishable  
24 by a fine only, has been committed;

25 (C) for the purpose of investigating the scene  
26 of:

27 (i) a human fatality;

1                   (ii) a motor vehicle accident causing death  
2 or serious bodily injury to a person; or

3                   (iii) any motor vehicle accident on a state  
4 highway or federal interstate or highway;

5                   (D) in connection with the search for a missing  
6 person;

7                   (E) for the purpose of conducting a high-risk  
8 tactical operation that poses a threat to human life;

9                   (F) of private property that is generally open to  
10 the public where the property owner consents to law enforcement  
11 public safety responsibilities; or

12                   (G) of real property or a person on real property  
13 that is within 25 miles of the United States border for the sole  
14 purpose of ensuring border security;

15                   (9) if the image is captured by state or local law  
16 enforcement authorities, or a person who is under contract with or  
17 otherwise acting under the direction or on behalf of state  
18 authorities, for the purpose of:

19                   (A) surveying the scene of a catastrophe or other  
20 damage to determine whether a state of emergency should be  
21 declared;

22                   (B) preserving public safety, protecting  
23 property, or surveying damage or contamination during a lawfully  
24 declared state of emergency; or

25                   (C) conducting routine air quality sampling and  
26 monitoring, as provided by state or local law;

27                   (10) at the scene of a spill, or a suspected spill, of

- 1 hazardous materials;
- 2           (11) for the purpose of fire suppression;
- 3           (12) for the purpose of rescuing a person whose life or  
4 well-being is in imminent danger;
- 5           (13) if the image is captured by a Texas licensed real  
6 estate broker in connection with the marketing, sale, or financing  
7 of real property, provided that no individual is identifiable in  
8 the image;
- 9           (14) from a height no more than eight feet above ground  
10 level in a public place, if the image was captured without using any  
11 electronic, mechanical, or other means to amplify the image beyond  
12 normal human perception;
- 13           (15) of public real property or a person on that  
14 property;
- 15           (16) if the image is captured by the owner or operator  
16 of an oil, gas, water, or other pipeline for the purpose of  
17 inspecting, maintaining, or repairing pipelines or other related  
18 facilities, and is captured without the intent to conduct  
19 surveillance on an individual or real property located in this  
20 state;
- 21           (17) in connection with oil pipeline safety and rig  
22 protection;
- 23           (18) in connection with port authority surveillance  
24 and security;
- 25           (19) if the image is captured by a registered  
26 professional land surveyor in connection with the practice of  
27 professional surveying, as those terms are defined by Section

1 1071.002, Occupations Code, provided that no individual is  
2 identifiable in the image;

3 (20) if the image is captured by a professional  
4 engineer licensed under Subchapter G, Chapter 1001, Occupations  
5 Code, in connection with the practice of engineering, as defined by  
6 Section 1001.003, Occupations Code, provided that no individual is  
7 identifiable in the image; [~~or~~]

8 (21) if:

9 (A) the image is captured by an employee of an  
10 insurance company or of an affiliate of the company in connection  
11 with the underwriting of an insurance policy, or the rating or  
12 adjusting of an insurance claim, regarding real property or a  
13 structure on real property; and

14 (B) the operator of the unmanned aircraft is  
15 authorized by the Federal Aviation Administration to conduct  
16 operations within the airspace from which the image is captured;

17 (22) if the image:

18 (A) is captured for the purpose of delivering  
19 consumer goods ordered through an Internet website or mobile  
20 application and the operation of the unmanned aircraft at the time  
21 the image was captured is conducted in compliance with:

22 (i) each applicable Federal Aviation  
23 Administration rule, restriction, or exemption; and

24 (ii) all required Federal Aviation  
25 Administration authorizations; and

26 (B) is not publicly disclosed, displayed, or  
27 distributed;



1           (23) if:

2                   (A) the image is captured by a state agency or  
3 local health authority:

4                           (i) for the purpose of assessing unsafe  
5 environmental conditions when physical entry onto the property is  
6 unsafe due to conditions such as an abandoned swimming pool,  
7 illegal dumping of refuse, or a chemical leak or spill; and

8                           (ii) in response to an inspection, or  
9 attempted inspection, on commercial property or to a disaster, as  
10 defined by Section 418.004; and

11                   (B) the state agency or local health authority:

12                           (i) provides notice to the owner or manager  
13 of the property, as applicable, before the agency or authority  
14 captures the image; or

15                           (ii) determines that conditions on the  
16 property are an imminent threat to public health;

17           (24) if the image is captured for the purpose of  
18 disaster preparedness, including for the inspection, maintenance,  
19 or repair of public infrastructure, by:

20                   (A) a county with a population of 550,000 or more  
21 that is adjacent to a county with a population of 3.3 million or  
22 more; or

23                   (B) a person who is under contract with or  
24 otherwise acting under the direction or on behalf of a county  
25 described by Paragraph (A); or

26           (25) if the image is captured by a governmental entity  
27 or a person contracted by or under the direction of a governmental

1 entity, for the purpose of:

2 (A) the provision of 9-1-1 service; or

3 (B) a mapping project or service other than a  
4 project or service for a law enforcement purpose.

5 SECTION 3. The heading to Section 423.0045, Government  
6 Code, is amended to read as follows:

7 Sec. 423.0045. OFFENSE: OPERATION OF UNMANNED AIRCRAFT  
8 OVER CERTAIN FACILITIES [~~CORRECTIONAL FACILITY, DETENTION~~  
9 ~~FACILITY, OR CRITICAL INFRASTRUCTURE FACILITY~~].

10 SECTION 4. Sections 423.0045(b) and (d), Government Code,  
11 are amended to read as follows:

12 (b) A person commits an offense if the person intentionally  
13 or knowingly:

14 (1) operates an unmanned aircraft over a correctional  
15 facility, detention facility, sports venue, or critical  
16 infrastructure facility and the unmanned aircraft is not higher  
17 than 400 feet above ground level;

18 (2) allows an unmanned aircraft to make contact with a  
19 correctional facility, detention facility, or critical  
20 infrastructure facility, including any person or object on the  
21 premises of or within the facility; or

22 (3) allows an unmanned aircraft to come within a  
23 distance of a correctional facility, detention facility, or  
24 critical infrastructure facility that is close enough to interfere  
25 with the operations of or cause a disturbance to the facility.

26 (d) An offense under this section is a Class B misdemeanor,  
27 except that the offense is a Class A misdemeanor if the actor has

1 previously been convicted under this section or under Section  
2 [423.0046](#) as that section existed on August 31, 2019.

3 SECTION 5. Section [423.0045](#)(c), Government Code, as amended  
4 by Chapters 824 (H.B. 1643) and 1010 (H.B. 1424), Acts of the 85th  
5 Legislature, Regular Session, 2017, is reenacted and amended to  
6 read as follows:

7 (c) This section does not apply to:

8 (1) conduct described by Subsection (b) that involves  
9 a correctional facility, detention facility, sports venue, or  
10 critical infrastructure facility and is committed by:

11 (A) the federal government, the state, or a  
12 governmental entity;

13 (B) a person under contract with or otherwise  
14 acting under the direction or on behalf of the federal government,  
15 the state, or a governmental entity;

16 (C) a law enforcement agency;

17 (D) a person under contract with or otherwise  
18 acting under the direction or on behalf of a law enforcement agency;  
19 or

20 (E) an operator of an unmanned aircraft that is  
21 being used for a commercial purpose, if the operation is conducted  
22 in compliance with:

23 (i) each applicable Federal Aviation  
24 Administration rule, restriction, or exemption; and

25 (ii) all required Federal Aviation  
26 Administration authorizations; or

27 (2) conduct described by Subsection (b) that involves

1 a sports venue or critical infrastructure facility and is committed  
2 by:

3 (A) an owner or operator of the sports venue or  
4 critical infrastructure facility;

5 (B) a person under contract with or otherwise  
6 acting under the direction or on behalf of an owner or operator of  
7 the sports venue or critical infrastructure facility;

8 (C) a person who has the prior written consent of  
9 the owner or operator of the sports venue or critical  
10 infrastructure facility; or

11 (D) the owner or occupant of the property on  
12 which the sports venue or critical infrastructure facility is  
13 located or a person who has the prior written consent of the owner  
14 or occupant of that property.

15 SECTION 6. Sections [423.0045\(a\)](#), [423.0046](#), and [423.006](#),  
16 Government Code, are repealed.

17 SECTION 7. (a) Except as otherwise provided by this Act,  
18 Chapter [423](#), Government Code, as amended by this Act, applies only  
19 to an offense committed on or after the effective date of this Act.  
20 An offense committed before the effective date of this Act is  
21 governed by the law in effect on the date the offense was committed,  
22 and the former law is continued in effect for that purpose.

23 (b) The repeal of Section [423.0046](#), Government Code, does  
24 not apply to an offense committed before the effective date of this  
25 Act. An offense committed before the effective date of this Act is  
26 governed by the law in effect on the date the offense was committed,  
27 and the former law is continued in effect for that purpose.

1           (c) For purposes of this section, an offense was committed  
2 before the effective date of this Act if any element of the offense  
3 occurred before that date.

4           SECTION 8. The repeal of Section 423.006, Government Code,  
5 does not apply to a cause of action that accrues before the  
6 effective date of this Act. A cause of action that accrues before  
7 the effective date of this Act is governed by the law applicable to  
8 the cause of action immediately before that date, and that law is  
9 continued in effect for that purpose.

10          SECTION 9. To the extent of any conflict, this Act prevails  
11 over another Act of the 86th Legislature, Regular Session, 2019,  
12 relating to nonsubstantive additions to and corrections in enacted  
13 codes.

14          SECTION 10. This Act takes effect September 1, 2019.